

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(NEWARK VICINAGE)**

JUSTINIANO A. BENOIT-LIRIANO	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION NO.
	:	
TIMOTHY J. HOUSER; WARD T.	:	
LOGISTICS; WARD TRUCKING,	:	
LLC; COLONIAL LIFE &	:	
ACCIDENT INSURANCE; JOHN	:	
DOES 1-10 (fictitious names);	:	
RICHARD ROES 1-10 (fictitious	:	
names; and ABC COMPANIES, INC.	:	
1-10 (fictitious names)	:	
Defendants.	:	

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ON NOTICE TO:

David T. Ercolano, Esquire
Fusco & Mascaluso Partners, L.L.C.
150 Passaic Avenue
P.O. Box 838
Passaic, New Jersey 07055
Attorney for Plaintiff

PLEASE TAKE NOTICE that Defendants Ward Trucking, LLC and Timothy Houser hereby remove this action to this Honorable Court pursuant to 28 U.S.C. §1332, 1441 and 1446, with full reservation of any and all defenses and objections.

In support of this Notice of Removal, Defendants Ward Trucking, LLC and Timothy Houser respectfully submit as follows:

1. On or about October 18, 2017, Plaintiff Justiniano A. Benoit-Liriano filed a civil action in the Superior Court of New Jersey, Law Division, Essex County, styled as *Justiniano A. Benoit-Liriano v. Timothy J. Houser, Ward T. Logistics, Ward Trucking, LLC and Colonial Life*

& *Accident Insurance*, Docket No. ESX-L-7410-17. A copy of the Complaint is attached and marked as Exhibit “A.”

2. The Complaint was served on Defendants Ward Trucking, LLC and Timothy Houser on November 2 and 3, 2017 respectively.

3. The Defendant identified as “Ward T. Logistics” is a misplaced/non-jural entity.

4. Pursuant to 28 U.S.C. §1446(a), all process, pleadings and Orders that have transpired in the State Court action as of the date of this filing are attached as Exhibits “A” and “B.”

5. The Superior Court of New Jersey, Essex County, is located within the district for the United States District Court for the District of New Jersey.

6. This Court has jurisdiction pursuant to 28 U.S.C. §1332, in that the true parties are completely diverse and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

7. Plaintiff alleges significant and permanent bodily injuries and pain and suffering and discomfort as a result of the motor vehicle accident that occurred on January 30, 2017. Further, Plaintiff alleges he has been, and will be, caused to incur medical expenses in an attempt to affect a cure for his injuries and has been, and will be, caused to be unable to pursue his usual occupation and activities. However, there is no specific prayer for relief. See Exhibit “A” at First Count.

8. On October 13, 2017, Plaintiff’s counsel filed an Offer of Judgment in the amount of \$100,000.00 based on the injury and potential lien which served as Defendants’ first notice of the true amount in controversy.

9. Removal is timely pursuant to 28 U.S.C. §1446(b)(3) in that this Petition is being filed within thirty (30) days after Defendants received notice that the amount in controversy was in excess of \$75,000.00.

10. Upon information and belief, Plaintiff maintains his present domicile at 57 Marsello Place, First Floor, Garfield, NJ and is an adult individual citizen of the State of New Jersey in accordance with 28 U.S.C. §1332. See Exhibit “A” at ¶1

11. Defendant Timothy Houser maintains his domicile and residence at 2044 Hopewell Road, Bethlehem, PA 18017, which is his true, fixed and permanent home and place of habitation such as whenever he is absent, he has the intention of returning and thus he is a citizen of the Commonwealth of Pennsylvania in accordance with 28 U.S.C. §1332.

12. Defendant Ward Trucking, LLC is a limited liability company with its principal place of business in Altoona, Pennsylvania.

13. Defendant Ward Trucking, LLC is a wholly owned subsidiary of the parent company, Ward Transport & Logistics, Corp., which is a Pennsylvania corporation with its principal place of business in Pennsylvania where it sits as the sole member of Ward Trucking, LLC and therefore is a citizen of the Commonwealth of Pennsylvania in accordance with 28 U.S.C. §1332.

14. Defendant Colonial Life & Accident Insurance Company is a business entity incorporated under the laws of South Carolina with its principal place of business in South Carolina and, therefore, a citizen of South Carolina in accordance with 28 U.S.C. §1332.

15. Diversity exists as to the parties. See 28 U.S.C. §1332(a)(2); *Moore’s Federal Practice* § 107.14(2)(c) (“a federal district court has original jurisdiction of all civil actions in which the amount in controversy is satisfied and the action is between citizens of the state and

citizens or subjects of a foreign state. This judicial power has often been referred to as alienage jurisdiction.”).

16. All Defendants are unanimous and consent to this Removal Petition.

17. In compliance with 28 U.S.C. §1446(d), Defendants Ward Trucking, LLC and Timothy Houser will promptly serve the Superior Court of New Jersey, Essex County, Law Division with a docketed copy of the within Petition for Removal.

WHEREFORE, the Removing Defendants hereby give notice that the above action, now pending against them in the Superior Court of New Jersey, Essex County, is removed to the United States District Court for the District of New Jersey (Newark Vicinage).

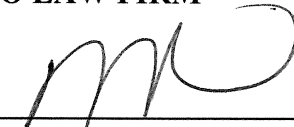
LOCAL CIVIL RULE 11.2

I, Matthew T. Pisano, Esquire hereby certify pursuant to Local Civil Rule 11.2, that the above captioned matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Respectfully submitted,

PISANO LAW FIRM

By:


Matthew T. Pisano, Esquire (MP8104)
Pisano Law Firm
309 Fellowship Road
East Gate Center, Ste. 200
Mount Laurel, NJ 08054
Attorneys for Defendants Ward Trucking,
LLC and Timothy Houser

Date:

11/30/17